

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

JESSE WHITE and KIMBERLY WHITE,
husband and wife,

Plaintiff(s),

CASE NO.: 4:05-CV-40018-FL

vs.

HON. PAUL V. GADOLA
MAG. JUDGE WALLACE CAPEL, JR.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendant(s).

ORDER DISMISSING AS MOOT
PLAINTIFFS' MOTION FOR DISCOVERY PURSUANT
TO RULE 26(b)(1)

This matter is before the Court on the Plaintiffs “Motion For Discovery Pursuant To 26(b)(1),” filed, on July 3, 2006. In their motion the Plaintiffs are seeking discovery from the Defendants, and also file their response to the Defendant’s Answer and Affirmative Defenses.

Without getting into the merits of the motion and response, the undersigned notes that on May 30, 2006, the Honorable Paul V. Gadola issued an Order Accepting Report and Recommendation. As part of that Order, the Court ordered that the Defendant’s “Motion To Dismiss Complaint For Insufficiency Of Service Of Process Pursuant To FRCVP 12(b)(5) and Failure To State A Claim Upon Which Relief May Be Granted Pursuant To FRCVP 12(b)(6)” is granted in-part as to the motion for insufficiency of process without making a determination as to whether the Plaintiffs failed to make a claim upon which relief can be granted. That order therefore, dismissed the pending action without prejudice. At this juncture because there is no longer an action pending before the Court, the motion is a moot issue.

Accordingly, the Plaintiffs' motion for discovery is hereby **DISMISSED AS MOOT**.

IT IS SO ORDERED.

The parties are hereby informed that any objection to this order must be filed with the district court within 10 days after service, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: July 28, 2006

s/ Wallace Capel, Jr.

WALLACE CAPEL, JR.

United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification of such filing to the following: Susan E. Callaghan, Esq., and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s) Jesse White and Kimberly White, 1293 18th. St., Detroit, MI 48216

s/James P. Peltier

James P. Peltier

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